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KRISTI NOEM
SECRETARY, DEPARTMENT
OF HOMELAND SECURITY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WILFRED L. LEE Jr.,

Plaintiff,

vs.

RISING PHOENIX HOLDINGS
CORPORATION, *et al.*,

Defendants.

CIVIL NO. 25-00083 DKW-RT

DEFENDANT KRISTI NOEM,
SECRETARY, DEPARTMENT OF
HOMELAND SECURITY'S
MOTION TO DISMISS THE FIRST
AMENDED COMPLAINT [ECF NO.
13]; MEMORANDUM IN SUPPORT;
CERTIFICATE OF SERVICE

**DEFENDANT KRISTI NOEM, SECRETARY,
DEPARTMENT OF HOMELAND SECURITY’S MOTION TO DISMISS THE
FIRST AMENDED COMPLAINT [ECF NO. 13]**

Defendant KRISTI NOEM, SECRETARY, DEPARTMENT OF HOMELAND SECURITY (“DHS”), by and through her undersigned counsel, hereby requests the Court dismiss Plaintiff Wilfred L. Lee Junior’s First Amended Complaint filed April 17, 2025 (ECF No. 13) because the Court lacks jurisdiction over DHS.

Lee’s seven claims, alphabetically identified as A–G, can be grouped as follows: disability discrimination and retaliation in violation of the American with Disabilities Act, 42 U.S.C § 12101 *et seq* (“ADA”) (claims A and B); racial and gender discrimination and retaliation in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq* (“Title VII”) (claims C, D, and E) and racial discrimination and retaliation in violation of 42 U.S.C. § 1981 (“§1981”) (claims F and G).

The court lacks jurisdiction over DHS because DHS did not employ Lee as required by the ADA and Title VII, but even if it did, Lee failed to exhaust his administrative remedies as required by law, and the relevant portions of the ADA and § 1981 explicitly exclude the federal government from their applicability.

This motion is made pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, the Memorandum in Support, and the filed documents in this matter. L.R. 7.8 does not apply because Lee is *pro se*.

DATED: May 15, 2025, at Honolulu, Hawaii.

KENNETH M. SORENSEN
Acting United States Attorney
District of Hawaii

/s/ Dana A. Barbata
By _____
DANA A. BARBATA
Assistant U.S. Attorney

Attorneys for Defendant
KRISTI NOEM, SECRETARY,
DEPARTMENT OF HOMELAND
SECURITY

CERTIFICATE OF SERVICE

I hereby certify that, on this date and by the method of service noted below, a true and correct copy of the foregoing was served on the following at their last known address:

Served via CM/ECF:

WILFRED L. LEE Jr.
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Attorney for Plaintiff
PLAINTIFF PRO SE

DATED: May 15, 2025, at Honolulu, Hawaii.

/s/ Dana A. Barbata

U. S. Attorney's Office
District of Hawaii